

MANDATE

S.D.N.Y. – N.Y.C.
93-cr-180
Kaplan, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 13th day of May, two thousand twenty-one.

Present:

Guido Calabresi,
Rosemary S. Pooler,
Michael H. Park,
Circuit Judges.

USDC SDNY
DOCUMENT
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DATE FILED: Jun 17 2021

United States of America,

Appellee,

v.

20-2720 (L),
20-3832 (Con)

Mahmud Abouhalima,
AKA Mahmoud Abu Halima, et al.,

Defendants,

Nidal Ayyad,

Defendant-Appellant.

Appellant, pro se, moves for a certificate of appealability (“COA”) and appointment of counsel. Upon due consideration, it is hereby ORDERED that, as to the appeal docketed under 20-2720 (L), the motions are DENIED and the appeal is DISMISSED because Appellant has not “made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c); *see also Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

It is further ORDERED that, as to the appeal docketed under 20-3832 (Con) challenging the denial of de novo resentencing after one of Appellant’s convictions was vacated, the COA motion is DENIED as unnecessary. *See Illarramendi v. United States*, 906 F.3d 268, 270 (2d Cir. 2018)

(per curiam) (“[A] COA is not required when appealing from orders in a habeas proceeding that are collateral to the merits of the habeas claim itself . . .”). It is further ORDERED that the motion for appointment of counsel is GRANTED in 20-3832 (Con). The Clerk’s Office shall appoint counsel pursuant to the Criminal Justice Act.

FOR THE COURT:
Catherine O’Hagan Wolfe, Clerk of Court




A True Copy

Catherine O’Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit


